

1 33. ISSUE: HENDERSHOTT LIED TO SHERIFF ARPAIO ABOUT WHO
2 ORDERED THE ARRESTS OF *PHOENIX NEW TIMES* EXECUTIVES
3 MICHAEL LACEY AND JIM LARKIN ON OCTOBER 17, 2007 – SUBJECT:
4 HENDERSHOTT
5 (Munnell Memo p. 55)
6

7 Chief Deputy David Hendershott
8

9 H28A. Allegedly, in October 2007, Chief Deputy David Hendershott inappropriately
10 ordered that *Phoenix New Times* executives Michael Lacey and Jim Larkin be
11 arrested for violating a court order prohibiting them from making public
12 information from a subpoena. Sheriff Joe Arpaio asked Hendershott who
13 ordered the arrests and he stated it was Dennis Wilenchik, but later Wilenchik
14 asked Arpaio who made the order because he had not. Hendershott later
15 admitted in a signed affidavit that he ordered the arrests.
16

17 MUNNELL'S WRITTEN ACCOUNT
18

19 Hendershott lies to you about the arrests of Phoenix New Times executives Michael Lacey
20 and Jim Larkin on October 17, 2007.
21

22 On October 17, 2007, Phoenix New Times executives Michael Lacey and Jim Larkin violated a
23 court order not to make public a subpoena related to our request of the Phoenix New Times to
24 provide subscriber information. After the pair were arrested and booked into jail, this Office
25 received a firestorm of criticism and negative publicity. As a result, County Attorney Andrew
26 Thomas made a public statement that he did not agree with or authorize the direction the case had
27 taken against the New Times and quickly dismissed the charges.
28

29 However, after the arrests had taken place, David Hendershott met with you in your office and you
30 asked Hendershott who had ordered the arrests. Hendershott lied to you by stating that Dennis
31 Wilenchik gave that order. However, about thirty minutes later, after Hendershott had left your
32 office, Wilenchik himself met with you in your office and directly asked you who had ordered the
33 arrests.
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35 As we now know, Hendershott actually made the decision to make the arrests and finally admitted
36 so in a signed affidavit under oath. By stating that he "made the decision" and "In reaching this
37 decision and giving these directions (Hendershott) did not consult with Maricopa County Attorney
38 Andrew Thomas," "nor did he consult with any member of the office of Maricopa County
39 Attorney Andrew Thomas including Attorney Dennis Wilenchik."
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42 WITNESSES LISTED BY MUNNELL
43

44 Sheriff Arpaio	Witness to event.
45 Communications Lisa Allen	Witness to event.
46 Deputy Chief Frank Munnell	Advised of matter by Allen.

47

48 WITNESS ACCOUNTS
49

1 **Frank Munnell**

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3 Munnell's information about these events comes from Lisa Allen. Munnell's account of
4 what transpired is found on pp. 91-92 of Exhibit II 28b.

5
6 **Lisa Allen**

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8 Lisa Allen's reaction, upon learning of the arrest of Mike Lacey and Jim Larkin, was as
9 follows.

10
11 Q: Any knowledge about the involvement of Hendershott in the decision to
12 arrest Mike Lacey and Jim Larkin from the *New Times*?

13
14 A: Well, no. I got a call from Paul Chagolla to tell me that any minute now
15 we're going to be arresting Mike Lacey and Jim Larkin and I completely threw a
16 friggin' fit at the stupidity of it. And Paul would not listen to me, and of course
17 Hendershott wouldn't tell me he was doing it because he'd get an earful from me,
18 not that he would ever give a damn, but, and so, there you have it. And wasn't
19 that a smart move. (p. 42, Exhibit II2a)

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21 Allen claims that she talked about this with Chief Hendershott, and told him that he was
22 an "idiot," how stupid the arrest was. I asked her what his response was to the
23 comment she made.

24
25 A: Oh, he didn't care. He doesn't, he always thinks he's right. Believe me.
26 He's sitting at home today right now thinking that everything that he'd done is
27 right. He, but it was an interesting point later on when he, I was present for this,
28 when he denied to the Sheriff that, he said I didn't make the decision to arrest
29 them. Dennis Wilenchik did. And Dennis Wilenchik came in and said I didn't
30 make it, David Hendershott did. And I know who made that call. I know who
31 made that call. Bottom dollar.

32
33 Q: How do you know who made that call?

34
35 A: Because of the colossalness of the stupidity of it, it could only be David
36 Hendershott. He doesn't think these things through. He doesn't, he has the worst
37 mind in the world when it comes to public relations and how this is going to be
38 spun out. What it's going to do media wise. And whether we like it or not, we
39 have to kind of think about those things. I mean obviously, if the guy killed their
40 mothers or something, you arrest the guys. You don't arrest journalists for doing
41 their jobs. You don't do it. So, it was stupid and it can only be attributed to him.

42
43 Q: Alright, so later in a meeting in which Sheriff Arpaio was in attendance,
44 the Sheriff asked who made the decision to do this and Hendershott said that
45 Wilenchik had made the decision?

1
2 A: Um hum. And then really, within an hour and a half, Wilenchik was
3 sitting in the same chair, Hendershott was gone, Wilenchik said it wasn't me. I
4 didn't do it. Hendershott made that call. And that would be a Hendershott move,
5 because to him, that would be, you know, Hendershott is no fool. He understands
6 that this Sheriff likes media attention. And there's no crime in, you know, and
7 this is for Mr. Babeu, too, there is no crime in an elected person understanding
8 what plays in the media and what doesn't. And if you want to play out to the
9 media, it's a two-edged sword, you're going to live and you're going to die by it.
10 And it's true that my boss enjoys media attention. And Hendershott, I think,
11 somewhere along the way thought that he had a better mind of what was going to
12 be good media attention for the Sheriff than anybody else. And he was almost
13 always wrong. He was wrong about the *New Times*, I think that some of these
14 political things that he did, he may have done thinking that the Sheriff was going to get
15 all kinds of press about this. You know, really look like a, you know, I'm going
16 after corruption kind of guy. Never understanding that half of this stuff is so
17 complicated nobody's going to give a damn about it, and it might come back to
18 bite you.

19
20 Q: Were you present when Wilenchik told the Sheriff that he had not ordered
21 the arrests?

22
23 A: Yes. (pp. 42-43, Exhibit II2a)

24
25 Lisa Allen is of the opinion that Hendershott had lied directly to the Sheriff, and the
26 person who probably knows with certainty who ordered the arrest of Lacey and Larkin is
27 Paul Chagolla.

28
29 **Loretta Barkell**

30
31 Barkell indicated that the day after the arrests, there was a senior staff meeting and
32 Chief Hendershott was excited about the arrests. Sheriff Arpaio came in, somewhat
33 upset about what had occurred, and asked who had authorized the arrest, prompting
34 Hendershott to say that Dennis Wilenchik had authorized the arrest. This response
35 seemed bizarre to Ms. Barkell, because the only one who really authorized it could have
36 been the Chief Deputy. Apparently, Lisa Allen was furious about what had taken place,
37 because of First Amendment issues, and Hendershott basically shot her down, telling
38 her that it was none of her business. Loretta claims that she knew, given the way that
39 Hendershott was talking about the arrest, prior to the time that Sheriff Arpaio came in,
40 that Hendershott had indeed ordered the arrest.

41
42 Barkell later learned from Lisa Allen that, later that afternoon, Wilenchik came on the
43 floor, went into the Sheriff's office, and the Sheriff asked Wilenchik whether he had
44 authorized the arrest of the *New Times* executives. Wilenchik indicated that he had not
45 authorized it.

Scott Freeman

Freeman's account about this series of events was as follows.

A: At the time, the threats unit that, selective enforcement, whatever they were called at the time, was working on that detail. I remember the, in fact I almost brought it today. I have a copy of that *New Times* article where the *New Times* wrote that they felt that they were obliged to break the law. That they knew what they were doing they could get in trouble for. That they were going to disclose Grand jury information and basically in direct opposition to the law that says you can't do that. And, they did so in their paper and about 6:00 that evening I get a phone call from Jeff Gentry who said that the prosecutor wants to have us arrest and book these guys for violation of the statute. And I said, well, hang on a minute, and I called Dave Hendershott. You know, and I said, Dave, they want these guys arrested and booked. I'm not sure that's the best plan. He said, that's what the prosecutor wants tell those guys to go pick them up. Yes, sir. So I called Gentry back and I said, boss says pick them up. They did. Now. (p. 90, Exhibit II14a)

Q: Did you conduct any research about, or have any other discussions with anybody else about the propriety of making the arrests?

A: Well, I'll only give you my opinion on this. Those guys knew up front they were breaking.

Q: You talking about the *New Times* executive?

A: I'm talking about the *New Times* executives. They knew it. They had been advised by their attorneys. They put it in the article. I had zero issue with the fact that they committed a crime. I didn't think picking them up and booking them was the best way to go. I think driving out to their house and handed them a citation would have been just fine. But, the fact of the matter is did we have probable cause to believe that they had broken the law? Yeah. Did they do so willingly and knowingly and with full knowledge that they were doing so? Absolutely. Is there a degree of screw you with that? I think so. So, a part of me said, good, I'm glad they booked them. But, a part of me said, you know the smarter thing to do, because it's media, because you're going, would, would have been . . . (p. 91, Exhibit II14a)

David Hendershott

Hendershott claims that he told Sheriff Arpaio that he (Hendershott) had authorized the arrest of Lacey and Larkin. According to Hendershott, Wilenchik had nothing to do with the decision, and MCSO does not let attorneys instruct Deputies to go out and make

1 arrests. Hendershott felt that the *New Times* editors had violated the law, so he "called
2 the ball" and ordered their arrest. Hendershott denied that he told Arpaio that Wilenchik
3 had ordered the arrest. Hendershott denied having knowledge or recollection of any
4 discussion between Sheriff Arpaio and Dennis Wilenchik, when he was present, in
5 which the issue of the arrest order was discussed.
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